

Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Ninth Meeting Day Monday Afternoon January 24, 2005

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Pastor Steve Sumrall, the Christian Center, South Bend, the guest of Representative Jackie S. Walorski.

The Pledge of Allegiance to the Flag was led by Representative Walorski

The Speaker ordered the roll of the House to be called:

T. Adams Klinker Aguilera Koch Alderman Kromkowski Austin Kuzman L. Lawson Avery Lehe Ayres Bardon 🖻 Leonard J. Lutz Bauer Becker Mahern Behning Mays Bischoff McClain Borders Messer Borror Micon Bottorff Moses Bright Murphy C. Brown Neese T. Brown Noe Orentlicher Buck Budak Oxley Pelath Buell Burton Pflum

Cheney Pierce Pond Cherry Cochran Porter Crawford Reske Richardson Crooks Davis Ripley Robertson Day Denbo Ruppel Dickinson Saunders J. Smith Dobis V. Smith Dodge Stevenson Duncan Dvorak Stilwell Espich Stutzman Folev Summers Friend Thomas Frizzell Thompson Tincher Fry GiaQuinta Torr

Goodin Turner Grubb **Hlmer** VanHaaften Gutwein E. Harris Walorski Welch T. Harris Heim Whetstone Hinkle 🖻 Wolkins Woodruff Hoffman Yount Hoy Kersey Mr. Speaker

Roll Call 25: 98 present; 2 excused. The Speaker announced a quorum in attendance. [NOTE: A indicates those who were excused.]

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed, without amendments, Engrossed House Bill 1021 and the same is herewith returned to the House.

MARY C. MENDEL Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 2, 8, 44, 49, 53, 112, 224, 225, and 229 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL Principal Secretary of the Senate

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, January 25, 2005 at 1:30 p.m.

WALORSKI

Motion prevailed.

Representative Clyde Kersey announced that Army Sergeant Kyle William Childress, a soldier from Terre Haute, had been killed in Iraq last week.

The House stood for a moment of silence in memory of Sergeant Childress.

Referrals to Ways and Means withdrawn

The Speaker announced that the referral of House Bills 1039 and 1219 to the Committee on Ways and Means, pursuant to Rule 127, had been withdrawn.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1283, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 17, between lines 41 and 42, begin a new line block indented and insert:

"If a hearing is conducted under subsection (e), the designating body shall file the information at least ten (10) days before the hearing.

(3) If the installation described in this subsection is the applicant's first installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment located within the designating body's jurisdiction, conduct a hearing under subsection (e) on the resolution adopted under this subsection. A hearing under subsection (e) is not required for subsequent installations of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment by the applicant at the same business location."

Page 18, line 2, delete "The" and insert "If the resolution adopted under this subsection concerns an applicant's first installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment located within the designating body's jurisdiction, the".

Page 18, line 4, delete "The designating body shall file".

Page 18, delete lines 5 through 7.

Page 18, line 8, delete "the public hearing. After considering the evidence, the" and insert "The".

Page 18, line 20, after "(e)" insert "This subsection applies to a final action concerning an applicant's first installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment located within a designating body's jurisdiction. However, a designating body may conduct a hearing under this subsection for subsequent installations of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment by the applicant at the same business location."

(Reference is to HB 1283 as introduced.) and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

BORROR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1344, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1345, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1346, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred House Bill 1347, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

TORR, Chair

Report adopted.

With consent of the members, the House took up bills on third reading.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1033

Representative Heim called down Engrossed House Bill 1033 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning the environment

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 26: yeas 94, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Gard and Heinold.

Engrossed House Bill 1056

Representative Duncan called down Engrossed House Bill 1056 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 27: yeas 95, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax, Jackman, and Sipes.

Engrossed House Bill 1130

Representative Foley called down Engrossed House Bill 1130 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning property.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 28: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsor: Senator Bray.

Engrossed House Bill 1153

Representative Foley called down Engrossed House Bill 1153 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 29: yeas 97, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Zakas, and Antich-Carr.

Engrossed House Bill 1159

Representative Ruppel called down Engrossed House Bill 1159 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 30: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Zakas, Dillon, and Heinold.

With consent of the members, the House returned to reports from committees.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1057, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 9, delete "locked glove compartment." and insert "fixed center console or other similar fixed compartment that is locked.".

Page 2, line 7, strike "Class B" and insert "Class D".

(Reference is to HB 1057 as introduced.) and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1080, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1105, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1211, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1230, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1263, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

FOLEY, Chair

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1325, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, delete lines 6 through 42, begin a new paragraph and insert:

- "(f) Not later than September 1, 2005, the committee shall submit recommendations to the secretary of the office of the secretary of family and social services and the governor concerning the redesign of the Indiana prescription drug program established by IC 12-10-16-3 to coordinate the program with the federal Medicare prescription drug benefit program. The recommendations must include the following:
 - (1) Methods, including automatic enrollment, that the state should use to ensure that current Indiana prescription drug program enrollees are enrolled in the federal Medicare prescription drug benefit program.
 - (2) Changes to the financial eligibility level requirements for the Indiana prescription drug program, including eligibility requirements that include individuals whose income does not exceed two hundred percent (200%) of the federal poverty level (as defined by IC 12-15-2-1).
 - (3) Methods to assist current enrollees in the Indiana prescription drug program in completing applications and to determine eligibility in the Medicare drug beneficiary subsidy program.
 - (4) Changes to benefits offered under the Indiana prescription drug program, including the following:
 - (A) Coverage for federal Medicare prescription drug benefit:
 - (i) deductibles; or
 - (ii) premiums.
 - (B) Coverage for prescription drug costs that are not covered by the federal Medicare prescription drug benefit or the federal Medicare prescription drug plans.
 - (5) Methods to maximize use of federal funding available to Indiana under the federal Medicare Modernization Act to maximize enrollment in:
 - (A) the federal Medicare prescription drug benefit program; and
 - (B) the Indiana prescription drug program.

The committee shall make recommendations in a manner that would expend but not exceed the Indiana prescription drug program's budget.

- (g) The office of the secretary of family and social services may:
 - (1) implement the recommendations made by the committee under subsection (f);
 - (2) act as the authorized representative and signatory to complete:
 - (A) any federal low income Medicare drug beneficiary subsidy application; and
 - (B) any federal Medicare prescription drug benefit application; and
 - (3) enroll eligible individuals for the Indiana prescription drug program and the federal Medicare prescription drug benefit program."

Page 4, line 1, strike "not".

(Reference is to HB 1325 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BECKER, Chair

Report adopted.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:05 p.m. with the Speaker in the Chair.

Report adopted.

HOUSE BILLS ON SECOND READING

House Bill 1022

Representative Koch called down House Bill 1022 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1051

Representative Borror called down House Bill 1051 for second reading. The bill was read a second time by title.

> HOUSE MOTION (Amendment 1051–1)

Mr. Speaker: I move that House Bill 1051 be amended to read as

Page 3, line 30, delete "or rental".

Page 3, line 30, after "and" insert "portable".

(Reference is to HB 1051 as printed January 14, 2005.)

CHENEY

Motion prevailed.

HOUSE MOTION

(Amendment 1051-2)

Mr. Speaker: I move that House Bill 1051 be amended to read as follows:

Page 3, between lines 32 and 33, begin a new paragraph and insert: "SECTION 3. IC 22-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The commissioner of labor is hereby authorized to take assignments of wage claims of less than eight hundred dollars (\$800.00), three thousand dollars (\$3,000), rights of action for penalties, mechanics and other liens of workers, without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims of persons who, in the judgment of the commissioner:

- (1) are entitled to the services of the commissioner; and who, in his judgment,
- (2) have claims which are valid and enforceable in the court.
- **(b)** The commissioner shall have power to join various claimants in one (1) preferred claim or lien, and, in case of suit, to join them in one (1) cause of action.".

Page 4, after line 5, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2005] (a) IC 22-2-9-5, as amended by this act, applies to wage claims filed with the commissioner of labor after June 30, 2005.

(b) This SECTION expires January 1, 2006.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1051 as printed January 14, 2005.)

DAY

Motion prevailed. The bill was ordered engrossed.

House Bill 1075

Representative Torr called down House Bill 1075 for second reading. The bill was read a second time by title.

> HOUSE MOTION (Amendment 1075–7)

Mr. Speaker: I move that House Bill 1075 be amended to read as follows:

Page 2, line 17, after "(6)" insert "The insurer agrees to renew the policy without the waiver two (2) years after the policy is issued and to continue the policy in force without underwriting consideration of the waived condition, if:

> (A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

> (B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

during the two (2) year period.

Page 2, line 21, delete "(7)" and insert "(8)".

Page 3, line 33, after "(6)" insert "The insurer agrees to renew the policy without the waiver two (2) years after the policy is issued and to continue the policy in force without underwriting consideration of the waived condition, if:

(A) the individual to whom the waiver applies has not received medical advice, diagnosis, care, or treatment related to the waived condition; and

(B) no recommendation has been made to the individual to whom the waiver applies that the individual should receive medical advice, diagnosis, care, or treatment related to the waived condition;

during the two (2) year period.

(7)".

Page 3, line 38, delete "(7)" and insert "(8)".

(Reference is to HB 1075 as printed January 14, 2005.)

Upon request of Representatives Fry and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 31: yeas 42, nays 54. Motion failed.

Representative Murphy was excused.

HOUSE MOTION (Amendment 1075-3)

Mr. Speaker: I move that House Bill 1075 be amended to read as follows:

Page 2, line 34, delete "or".

Page 2, line 35, delete "." and insert "; or

(3) diabetes as required under IC 27-8-14.5.".

Page 4, line 10, delete "or".
Page 4, line 11, delete "." and insert "; or

(3) diabetes as required under IC 27-8-14.5.". (Reference is to HB 1075 as printed January 14, 2005.)

FRY

Upon request of Representatives Fry and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 32: yeas 95, nays 0. Motion prevailed.

HOUSE MOTION (Amendment 1075–5)

Mr. Speaker: I move that House Bill 1075 be amended to read as follows:

Page 2, line 31, delete "," and insert ":

(1)".

Page 2, line 34, delete "(1)", begin a new line double block indented and insert:

"(A)".

Page 2, line 35, delete "(2)", begin a new line double block indented and insert:

"(B)".

Page 2, line 35, delete "." and insert "; and

(2) an insurer that issues an individual policy of accident and sickness insurance shall comply with the requirements concerning victims of abuse under IC 27-8-24.3.".

Page 4, line 8, delete "," and insert ":

(1)".

Page 4, line 10, delete "(1)", begin a new line double block indented and insert:

"(A)".

Page 4, line 11, delete "(2)", begin a new line double block indented and insert:

"(B)".

Page 4, line 11, delete "." and insert "; and

(2) an insurer that issues a policy described in subsection (a) shall comply with the requirements concerning victims of abuse under IC 27-8-24.3.".

(Reference is to HB 1075 as printed January 14, 2005.)

Upon request of Representatives Whetstone and Friend, the Speaker ordered the roll of the House to be called. Roll Call 33: yeas 95, nays 0. Motion prevailed.

HOUSE MOTION

(Amendment 1075–6)

Mr. Speaker: I move that House Bill 1075 be amended to read as follows:

Page 2, between lines 23 and 24, begin a new line block indented and insert:

"(8) The waiver period does not exceed two (2) years.".

Page 3, between lines 40 and 41, begin a new line block indented and insert:

"(8) The waiver period does not exceed two (2) years.". (Reference is to HB 1075 as printed January 14, 2005.)

FRY

Motion failed.

HOUSE MOTION (Amendment 1075–17)

Mr. Speaker: I move that House Bill 1075 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

- (a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
 - (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
 - (4) Subtract one thousand dollars (\$1,000) for:
 - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
 - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
 - (C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.
 - (5) Subtract:
 - (A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and
 - (B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

- (6) Subtract an amount equal to the lesser of:
 - (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
 - (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction

from adjusted gross income.

- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
- (14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.
- (15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.
- (16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.
- (17) Subtract an amount equal to the lesser of:
 - (A) for a taxable year:
 - (i) including any part of 2004, the amount determined under subsection (f); and
 - (ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or
 - (B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.
- (18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.
- (19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (20) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (21) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a).
- (b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

- (3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
 - (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
 - (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
 - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
 - (6) Add an amount equal to any deduction allowed under Section 172 or Section 810 of the Internal Revenue Code.
- (d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
 - (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
 - (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
 - (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
 - (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
 - (6) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:
 - (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

- (2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.
- (3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.
- (4) Add an amount equal to any deduction allowed under Section 172 of the Internal Revenue Code.
- (f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:
 - STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.
 - STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.
 - STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.
 - STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).
 - STEP FIVE: Determine the sum of the STEP THREE FOUR amount and two thousand five hundred dollars (\$2,500).
- SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 25. Credit for Offering Health Benefit Plans Sec. 1. This chapter applies to an employer that:

- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).
- Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums not included in the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.
- Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the first taxable year for which the taxpayer claims a credit under this chapter.

Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

- Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:
 - (1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or (2) a contract with a health maintenance organization for
- coverage of basic health care services under IC 27-13; that satisfies the requirements of Section 125 of the Internal Revenue Code.
 - (b) The term does not include the following:
 - (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
 - (2) Coverage issued as a supplement to liability insurance.

- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.
- Sec. 6. As used in this chapter, "pass through entity" means a:
 - (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
 - (2) partnership;
 - (3) limited liability company; or
 - (4) limited liability partnership.
- Sec. 7. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:
 - (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
 - (2) IC 6-5.5 (financial institutions tax); and
 - (3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 8. As used in this chapter, "taxpayer" means an individual or entity that:

- (1) has state tax liability; and
- (2) employs at least ten (10) full-time employees who are located in Indiana.
- Sec. 9. (a) An eligible taxpayer that, after December 31, 2005, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:
 - (1) An employee's participation in the health benefit plan is at the employee's election.
 - (2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.
 - (b) The credit allowed under this chapter equals the lesser of:
 - (1) two thousand five hundred dollars (\$2,500); or
 - (2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

- (b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.
- Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.
- (b) A taxpayer is not entitled to a refund of any unused credit. Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:
 - (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
 - (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

- (1) the first taxable year in which the taxpayer offers the health benefit plan; and
- (2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

An employee's eligible benefits are not included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the taxable years following the taxable year described in subdivision (2).

(b) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year."

Page 6, between lines 17 and 18, begin a new paragraph and insert: "SECTION 4. [EFFECTIVE JULY 1, 2005] IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2005.

SECTION 5. [EFFECTIVE JULY 1, 2005] IC 6-3.1-25, as added by this act, applies only to taxable years beginning after December 31, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1075 as printed January 14, 2005.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Orentlicher's amendment (1075–17) is not germane to House Bill 1075.

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 17 is germane to House Bill 1075 because they both deal with the subject of decreasing the costs of health insurance.

PELATH ORENTLICHER

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 34: yeas 49, nays 46. The ruling of the Chair was sustained.

[Journal Clerk's note: House Rule 24.1 requires 51 votes, a constitutional majority, against the ruling to overturn a decision of the Chair.]

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

House Bill 1097

Representative Borror called down House Bill 1097 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1097-4)

Mr. Speaker: I move that House Bill 1097 be amended to read as follows:

Page 2, line 6, delete "." and insert "that is not held as inventory (as defined in IC 6-1.1-3-11).".

(Reference is to HB 1097 as printed January 14, 2005.)

BORROR

Motion prevailed.

HOUSE MOTION (Amendment 1097–5)

Mr. Speaker: I move that House Bill 1097 be amended to read as follows:

Page 2, line 29, delete ";" and insert ",".

Page 2, line 29, after "and" insert "which must require the use of nationally recognized valuation guides when determining the true tax value of mobile homes assessed under IC 6-1.1-7;".

(Reference is to HB 1097 as printed January 14, 2005.)

WELCH

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill.

After discussion, Representative Whetstone withdrawn the point of order.

The question was on the motion of Representative Welch.

Motion prevailed.

HOUSE MOTION (Amendment 1097–2)

Mr. Speaker: I move that House Bill 1097 be amended to read as follows:

Page 2, between lines 6 and 7, begin a new paragraph and insert: "SECTION 2. IC 6-1.1-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

(1) information concerning the assessed valuation in the political subdivision for the next calendar year;

- (2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;
- (3) the current assessed valuation as shown on the abstract of charges;
- (4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance; and
- (5) information concerning credits applicable under IC 6-1.1-21-5.7 to taxes first due and payable in the next calendar year; and
- (5) (6) any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.
- (b) The estimate of taxes to be distributed shall be based on:
 - (1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and
 - (2) any other information at the disposal of the county auditor which might affect the estimate.
- (c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.
- (d) The officers of a political subdivision shall adjust the assessed value used in setting rates for the taxes first due and payable in a calendar year in which credits apply under

IC 6-1.1-21-5.7 to eliminate or minimize levy reductions that would otherwise result from the application of those credits.

SECTION 3. IC 6-1.1-21-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.7. (a) The following definitions apply throughout this section:

- (1) "General reassessment" refers to a general reassessment of real property under IC 6-1.1-4-4.
- (2) "Homestead" has the meaning set forth in IC 6-1.1-20.9-1(2).
- (3) "Net property tax bill" means the amount of property taxes currently due and payable in a particular calendar year after the application of all deductions and credits, except for the credit provided by this section, as evidenced by the tax statements required under IC 6-1.1-22-8.
- (4) "Physical characteristics" refers to physical characteristics of a homestead that bear on the determination of the assessed value of the homestead.
- (5) "Preceding year tax" means the amount of the net property tax bill for a homestead in the calendar year that immediately precedes the calendar year in which property taxes are first due and payable based on a general reassessment.
- (6) "Qualifying homestead" means:
 - (A) if subsection (g) does not apply, a homestead for which the reassessment tax is at least one hundred seventy-five percent (175%) of the preceding year tax; and
 - (B) if subsection (g) applies, a homestead for which the amount determined under subsection (g) of the reassessment tax is at least one hundred seventy-five percent (175%) of the amount determined under subsection (g) of the preceding year tax.
- (7) "Qualifying individual" means an individual who is liable for the payment of the:
 - (A) preceding year tax; and
 - (B) reassessment tax.
- (8) "Reassessment tax" means the amount of the net property tax bill for a homestead in the calendar year in which property taxes are first due and payable based on a general reassessment.
- (b) A qualifying individual may receive a credit against the net property tax bill with respect to the qualifying individual's qualifying homestead in:
 - (1) the calendar year in which reassessment tax is first due and payable; and
 - (2) subsequent calendar years;
- as provided in subsections (c) through (e).
- (c) Subject to subsection (g), if the reassessment tax is at least one hundred seventy-five percent (175%) but less than two hundred fifty percent (250%) of the preceding year tax, the amount of the credit is the percentage from the following table multiplied by the amount by which the reassessment tax exceeds the preceding year tax:

YEAR IN RELATION TO THE YEAR OF LIABILITY FOR

REASSESSMENT TAX

PERCENTAGE 50%

Current year First following year

and subsequent years

0.07

(d) Subject to subsection (g), if the reassessment tax is at least two hundred fifty percent (250%) but less than three hundred twenty-five percent (325%) of the preceding year tax, the amount of the credit is the percentage from the following table multiplied by the amount by which the reassessment tax exceeds the preceding year tax:

YEAR IN RELATION TO THE YEAR OF LIABILITY FOR

REASSESSMENT TAX
Current year
First following year
Second following year
and subsequent years

PERCENTAGE
67%
33%
Second following year
and subsequent years

(e) Subject to subsection (g), if the reassessment tax is at least

three hundred twenty-five percent (325%) of the preceding year tax, the amount of the credit is the percentage from the following table multiplied by the amount by which the reassessment tax exceeds the preceding year tax:

YEAR IN RELATION TO THE YEAR OF LIABILITY FOR

ASSESSMENT TAX	PERCENTAGE
Current year	75%
First following year	50%
Second following year	25%
Third following year	
and subsequent years	0%

- (f) Subject to subsection (g), the county auditor shall compute and apply the credit under this section for each qualifying individual entitled to the credit.
 - (g) If a change in physical characteristics occurred:
 - (1) after the assessment date for which the preceding year tax was determined; and
 - (2) on or before the assessment date for which the reassessment tax was determined;

the county auditor shall compute the credit under this subsection. If the change has the effect of increasing the assessed value of the homestead, the county auditor shall determine the reassessment tax for purposes of subsections (c), (d), and (e) based on a homestead assessed value that excludes the assessed value resulting from the change. If the change has the effect of decreasing the assessed value of the homestead, the county auditor shall determine the preceding year tax for purposes of subsections (c), (d), and (e) based on a homestead assessed value that would have applied if the change occurred before the assessment date for which the preceding year tax is determined. The township assessor shall assist the county auditor in determining assessed values used in this subsection.

(h) If the qualifying individual resides in the homestead with the qualifying individual's spouse, those individuals are together entitled to one (1) credit under this section for the homestead.

SECTION 4. IC 6-1.1-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Notwithstanding IC 6-1.1-26, any taxpayer who is entitled to a credit under this chapter or who has properly filed for and is entitled to a credit under IC 6-1.1-20.9, and who, without taking the credit, pays in full the taxes to which the credit applies, is entitled to a refund, without interest, of an amount equal to the amount of the credit. However, if the taxpayer, at the time a refund is claimed, owes any other taxes, interest, or penalties payable to the county treasurer to whom the taxes subject to the credit were paid, then the credit shall be first applied in full or partial payment of the other taxes, interest, and penalties and the balance, if any, remaining after that application is available as a refund to the taxpayer.

- (b) Any taxpayer entitled to a refund under this section **other than** a **refund based on the credit under section 5.7 of this chapter** shall be paid that refund from proceeds of the property tax replacement fund. However, with respect to any refund attributable to a homestead credit, the refund shall be paid from that fund only to the extent that the percentage homestead credit the taxpayer was entitled to receive for a year does not exceed the percentage credit allowed in IC 6-1.1-20.9-2(d) for that same year. Any refund in excess of that amount shall be paid from the county's revenue distributions received under IC 6-3.5-6.
- (c) The state board of accounts shall establish an appropriate procedure to simplify and expedite the method for claiming these refunds and for the payments thereof, as provided for in this section, which procedure is the exclusive procedure for the processing of the refunds. The procedure shall, however, require the filing of claims for the refunds by not later than June 1 of the year following the payment of the taxes to which the credit applied."

Page 3, after line 8, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2005] IC 6-1.1-21-5.7, as added by this act, applies only to a general reassessment of real property under IC 6-1.1-4-4 that occurs after July 30, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1097 as printed January 14, 2005.)

ORENTLICHER

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Orentlicher's amendment (1097–2) is not germane to House Bill 1097.

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 2 is germane to House Bill 1097 because they both deal with the subject of property.

PELATH ORENTLICHER

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 35: yeas 49, nays 43. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendments, the bill was ordered engrossed.

Representative Murphy, who had been excused, was present.

House Bill 1182

Representative Leonard called down House Bill 1182 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1182–2)

Mr. Speaker: I move that House Bill 1182 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-30-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Before December 1, 2005, and every four (4) years thereafter, the department of local government finance shall study the economic development activity occurring in economic development districts (IC 6-1.1-39) and tax increment finance allocation areas (IC 36-7-14 and IC 36-7-15.1).

- (b) The department of local government finance shall report the department's findings to the general assembly in an electronic format under IC 5-14-6.
- (c) The report required under this section must contain the following information:
 - (1) The location of each district and allocation area established or proposed before the publication of the report.
 - (2) The number of districts and allocation areas that have the authority to pay bonds or lease obligations in whole or in part from property tax proceeds allocated from the district or allocation area.
 - (3) Whether a district or allocation area's bonds or lease obligations are payable from general obligation bonds or revenue bonds.
 - (4) An analysis of the impact that the allocation of property tax proceeds from each district and allocation area has had on the property tax revenues of the school corporations and civil taxing units affected by the designation of the district or allocation area.
 - (5) A description of the economic development activity occurring within each district and allocation area using the classifications of the current edition of the North American Industry Classification System Manual United States, published by the National Technical Information Service of the United States Department of Commerce.
 - (6) A description of the infrastructure improvements financed in each district and allocation area from the property tax proceeds allocated from the district or allocation area."

Renumber all SECTIONS consecutively. (Reference is to HB 1182 as printed January 14, 2005.)

Upon request of Representatives Cheney and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 36: yeas 44, nays 49. Motion failed.

HOUSE MOTION (Amendment 1182–3)

Mr. Speaker: I move that House Bill 1182 be amended to read as follows:

Page 2, between lines 12 and 13, begin a new paragraph and insert: "SECTION 2. IC 6-1.1-39-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A declaratory ordinance adopted under section 2 of this chapter and confirmed under section 3 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. The allocation provision must apply to the entire economic development district. **Subject to subsection (i)**, the allocation provisions must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the economic development district be allocated and distributed as follows:

- (1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:
 - (A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
 - (B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units. However, if the effective date of the allocation provision of a declaratory ordinance is after March 1, 1985, and before January 1, 1986, and if an improvement to property was partially completed on March 1, 1985, the unit may provide in the declaratory ordinance that the taxes attributable to the assessed value of the property as finally determined for March 1, 1984, shall be allocated to and, when collected, paid into the funds of the respective taxing units.

- (2) Except as otherwise provided in this section, part or all of the property tax proceeds in excess of those described in subdivision (1), as specified in the declaratory ordinance, shall be allocated to the unit for the economic development district and, when collected, paid into a special fund established by the unit for that economic development district that may be used only to pay the principal of and interest on obligations owed by the unit under IC 4-4-8 for the financing of industrial development programs in, or serving, that economic development district. The amount not paid into the special fund shall be paid to the respective units in the manner prescribed by subdivision (1).
- (3) When the money in the fund is sufficient to pay all outstanding principal of and interest (to the earliest date on which the obligations can be redeemed) on obligations owed by the unit under IC 4-4-8 for the financing of industrial development programs in, or serving, that economic development district, money in the special fund in excess of that amount shall be paid to the respective taxing units in the manner prescribed by subdivision (1).
- (b) Property tax proceeds allocable to the economic development district under subsection (a)(2) must, subject to subsection (a)(3), be irrevocably pledged by the unit for payment as set forth in subsection (a)(2).
- (c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the economic development district that is annexed by any taxing unit after the effective date of the allocation provision of the declaratory ordinance is the lesser of:
 - (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
 - (2) the base assessed value.

A tax allocation under this subsection is subject to subsection (i).

(d) Notwithstanding any other law, each assessor shall, upon

petition of the fiscal body, reassess the taxable property situated upon or in, or added to, the economic development district effective on the next assessment date after the petition.

- (e) **Subject to subsection (i),** notwithstanding any other law, the assessed value of all taxable property in the economic development district, for purposes of tax limitation, property tax replacement (except as provided in IC 6-1.1-21-3(c), IC 6-1.1-21-4(a)(3), and IC 6-1.1-21-5(c)), and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:
 - (1) the assessed value of the property as valued without regard to this section; or
 - (2) the base assessed value.
- (f) The state board of accounts and department of local government finance shall make the rules and prescribe the forms and procedures that they consider expedient for the implementation of this chapter. After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1.
 - (g) As used in this section, "property taxes" means:
 - (1) taxes imposed under this article on real property; and
 - (2) any part of the taxes imposed under this article on depreciable personal property that the unit has by ordinance allocated to the economic development district. However, the ordinance may not limit the allocation to taxes on depreciable personal property with any particular useful life or lives.

If a unit had, by ordinance adopted before May 8, 1987, allocated to an economic development district property taxes imposed under IC 6-1.1 on depreciable personal property that has a useful life in excess of eight (8) years, the ordinance continues in effect until an ordinance is adopted by the unit under subdivision (2).

- (h) As used in this section, "base assessed value" means:
 - (1) the net assessed value of all the property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the declaratory resolution, as adjusted under subsection (f); plus
 - (2) to the extent that it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Subdivision (2) applies only to economic development districts established after June 30, 1997, and to additional areas established after June 30, 1997.

- (i) If an allocation provision is adopted after June 30, 2005:
 - (1) the allocation provision may not require proceeds of property taxes imposed by a school corporation to be allocated to the unit for the economic development district; (2) all property taxes imposed by the school corporation are paid into the funds of the school corporation; and
 - (3) subsection (e) applies only to a political subdivision other than a school corporation.

SECTION 3. IC 8-22-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) As used in this section, "base assessed value" means:

- (1) the net assessed value of all the tangible property as finally determined for the assessment date immediately preceding the effective date of the allocation provision of the commission's resolution adopted under section 5 of this chapter; plus
- (2) to the extent it is not included in subdivision (1), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

However, subdivision (2) applies only to an airport development zone established after June 30, 1997, and the portion of an airport development zone established before June 30, 1997, that is added to an existing airport development zone.

(b) Except in a county described in section 1(5) of this chapter, a resolution adopted under section 5 of this chapter and confirmed

under section 6 of this chapter must include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section.

- (c) The allocation provision must:
 - (1) apply to the entire airport development zone; and
 - (2) **subject to subsection (k)**, require that any property tax on taxable tangible property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the airport development zone be allocated and distributed as provided in subsections (d) and (e).
- (d) Except in a county described in section 1(5) of this chapter, and as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:
 - (1) the assessed value of the tangible property for the assessment date with respect to which the allocation and distribution is made; or
 - (2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

- (e) Except in a county described in section 1(5) of this chapter and subject to subsection (k), all of the property tax proceeds in excess of those described in subsection (d) shall be allocated to the eligible entity for the airport development zone and, when collected, paid into special funds as follows:
 - (1) The commission may determine that a portion of tax proceeds shall be allocated to a training grant fund to be expended by the commission without appropriation solely for the purpose of reimbursing training expenses incurred by public or private entities in the training of employees for the qualified airport development project.
 - (2) Except as provided in subsection (f), all remaining tax proceeds shall be allocated to a debt service fund and dedicated to the payment of principal and interest on revenue bonds of the airport authority for a qualified airport development project or to the payment of leases for a qualified airport development project.
- (f) Except in a county described in section 1(5) of this chapter, if the tax proceeds allocated to the debt service fund exceed the amount necessary to:
 - (1) pay principal and interest on airport authority revenue bonds;
 - (2) pay lease rentals on leases of a qualified airport development project; or
 - (3) create, maintain, or restore a reserve for airport authority revenue bonds or for lease rentals or leases of a qualified airport development project;

the excess over that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).

- (g) Except in a county described in section 1(5) of this chapter, when money in the debt service fund is sufficient to pay all outstanding principal and interest (to the earliest date on which the obligations can be redeemed) on revenue bonds issued by the airport authority for the financing of qualified airport development projects and all lease rentals payable on leases of qualified airport development projects, money in the debt service fund in excess of that amount shall be paid to the respective taxing units in the manner prescribed by subsection (d).
- (h) Except in a county described in section 1(5) of this chapter, property tax proceeds allocable to the debt service fund under subsection (e)(2) must, subject to subsection (g), be irrevocably pledged by the eligible entity for the purpose set forth in subsection (e)(2).
- (i) Except in a county described in section 1(5) of this chapter, and notwithstanding any other law, each assessor shall, upon petition of the commission, reassess the taxable tangible property situated upon or in, or added to, the airport development zone effective on the next assessment date after the petition.
- (j) Except in a county described in section 1(5) of this chapter, and notwithstanding any other law, and subject to subsection (k), the assessed value of all taxable tangible property in the airport development zone, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser

of.

- (1) the assessed value of the tangible property as valued without regard to this section; or
- (2) the base assessed value.
- (k) If an allocation provision is adopted after June 30, 2005:
 - (1) the allocation provision may not require proceeds of property taxes imposed by a school corporation to be allocated to the eligible entity for the airport development zone;
 - (2) all property taxes imposed by the school corporation are paid into the funds of the school corporation; and
 - (3) subsection (j) applies only to a political subdivision other than a school corporation.".

Page 4, line 14, delete "The" and insert "Subject to subsection (i), the".

Page 6, line 25, delete "Determine" and insert "Subject to subsection (i), determine".

Page 7, between lines 5 and 6, begin a new line blocked left and insert:

"A tax allocation under this subsection is subject to subsection (i)."

Page 7, line 14, delete "Notwithstanding" and insert "Subject to subsection (i), notwithstanding".

Page 8, between lines 25 and 26, begin a new paragraph and insert:

- "(i) If an allocation provision is adopted after June 30, 2005:(1) the allocation provision may not require proceeds of
 - (1) the allocation provision may not require proceeds of property taxes imposed by a school corporation to be allocated to the redevelopment district;
 - (2) all property taxes imposed by the school corporation are paid into the funds of the school corporation;
 - (3) the commission shall exclude the estimated tax rate of the school corporation from the estimated tax rate of the allocation area for purposes of the determination under subsection (b)(3)(A); and
 - (4) subsection (f) applies only to a political subdivision other than a school corporation.".

Page 10, line 27, delete "The" and insert "Subject to subsection (i), the".

Page 12, line 4, delete "Determine" and insert "Subject to subsection (i), determine".

Page 12, between lines 24 and 25, begin a new line blocked left and insert:

"A tax allocation under this subsection is subject to subsection (i)."

Page 12, line 33, delete "Notwithstanding" and insert "Subject to subsection (i), notwithstanding".

Page 14, between lines 9 and 10, begin a new paragraph and insert:

- "(i) If an allocation provision is adopted after June 30, 2005:

 (1) the allocation provision may not require proceeds of
 - property taxes imposed by a school corporation to be allocated to the redevelopment district;
 - (2) all property taxes imposed by the school corporation are paid into the funds of the school corporation;
 - (3) the commission shall exclude the estimated tax rate of the school corporation from the estimated tax rate of the allocation area for purposes of the determination under subsection (b)(3)(A); and
 - (4) subsection (f) applies only to a political subdivision other than a school corporation."

Page 15, line 3, delete "The" and insert "Subject to subsection (i), the".

Page 16, line 23, delete "Determine" and insert "Subject to subsection (i), determine".

Page 17, between lines 1 and 2, begin a new line blocked left and insert:

"A tax allocation under this subsection is subject to subsection (i)."

Page 17, line 10, delete "Notwithstanding" and insert "Subject to subsection (i), notwithstanding".

Page 18, after line 27, begin a new paragraph and insert:

- "(i) If an allocation provision is adopted after June 30, 2005:
 - (1) the allocation provision may not require proceeds of property taxes imposed by a school corporation to be

allocated to the redevelopment district;

(2) all property taxes imposed by the school corporation are paid into the funds of the school corporation;

(3) the commission shall exclude the estimated tax rate of the school corporation from the estimated tax rate of the allocation area for purposes of the determination under subsection (b)(3)(A); and

(4) subsection (f) applies only to a political subdivision other than a school corporation.

SECTION 7. IC 36-7-30-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) The following definitions apply throughout this section:

- (1) "Allocation area" means that part of a military base reuse area to which an allocation provision of a declaratory resolution adopted under section 10 of this chapter refers for purposes of distribution and allocation of property taxes.
- (2) "Base assessed value" means:
 - (A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus (B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment thereto, as finally determined for any subsequent assessment date; plus
 - (C) to the extent that it is not included in clause (A) or (B), the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.
- Clause (C) applies only to allocation areas established in a military reuse area after June 30, 1997, and to the portion of an allocation area that was established before June 30, 1997, and that is added to an existing allocation area after June 30, 1997.
- (3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.
- (b) A declaratory resolution adopted under section 10 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 13 of this chapter. The allocation provision may apply to all or part of the military base reuse area. Subject to subsection (i), the allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:
 - (1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:
 - (A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
 - (B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

- (2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the military base reuse district and, when collected, paid into an allocation fund for that allocation area that may be used by the military base reuse district and only to do one (1) or more of the following:
 - (A) Pay the principal of and interest and redemption premium on any obligations incurred by the military base reuse district or any other entity for the purpose of financing or refinancing military base reuse activities in or directly serving or benefiting that allocation area.
 - (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the reuse

authority, including lease rental revenues.

- (C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.
- (D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area
- (E) Pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the reuse authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:

STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district. STEP TWO: Divide:

- (i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by
- (ii) the STEP ONE sum.

STEP THREE: Multiply:

- (i) the STEP TWO quotient; times
- (ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.

If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under section 27 of this chapter in the same year.

- (F) Pay expenses incurred by the reuse authority for local public improvements or structures that were in the allocation area or directly serving or benefiting the allocation area.
- (G) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:
 - (i) in the allocation area; and
 - (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

The allocation fund may not be used for operating expenses of the reuse authority.

- (3) Except as provided in subsection (g), before July 15 of each year the reuse authority shall do the following:
 - (A) Subject to subsection (i), determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).
 - (B) Notify the county auditor of the amount, if any, of the amount of excess property taxes that the reuse authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1). The reuse authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 19 of this chapter. Property taxes received by a taxing unit under this subdivision are eligible for the property tax replacement credit provided under IC 6-1.1-21.
- (c) For the purpose of allocating taxes levied by or for any taxing

unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

- (1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or
- (2) the base assessed value.

A tax allocation under this subsection is subject to subsection (i).

- (d) Property tax proceeds allocable to the military base reuse district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base reuse district for payment as set forth in subsection (b)(2).
- (e) Notwithstanding any other law, each assessor shall, upon petition of the reuse authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.
- (f) **Subject to subsection (i)**, notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:
 - (1) the assessed value of the property as valued without regard to this section; or
 - (2) the base assessed value.
- (g) If any part of the allocation area is located in an enterprise zone created under IC 4-4-6.1, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that portion of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half ($\frac{1}{2}$) of their enrollment in any session for residents of the enterprise zone.
- (h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment on the property tax proceeds allocated to the military base reuse district under this section. However, the adjustment may not include the effect of property tax abatements under IC 6-1.1-12.1, and the adjustment may not produce less property tax proceeds allocable to the military base reuse district under subsection (b)(2) than would otherwise have been received if the general reassessment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.
 - (i) If an allocation provision is adopted after June 30, 2005:
 - (1) the allocation provision may not require proceeds of property taxes imposed by a school corporation to be allocated to the military base reuse district;
 - (2) all property taxes imposed by the school corporation are paid into the funds of the school corporation;

- (3) the reuse authority shall exclude the estimated tax rate of the school corporation from the estimated tax rate of the allocation area for purposes of the determination under subsection (b)(3)(A); and
- (4) subsection (f) applies only to a political subdivision other than a school corporation.

SECTION 8. IC 36-7-32-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) An allocation provision adopted under section 15 of this chapter must:

- (1) apply to the entire certified technology park; and
- (2) **subject to subsection (g),** require that any property tax on taxable property subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes in the certified technology park be allocated and distributed as provided in subsections (b) and (c).
- (b) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:
 - (1) the assessed value of the taxable property for the assessment date with respect to which the allocation and distribution is made; or
 - (2) the base assessed value;

shall be allocated and, when collected, paid into the funds of the respective taxing units.

- (c) Except as provided in subsection (d) and subject to subsection (g), all the property tax proceeds that exceed those described in subsection (b) shall be allocated to the redevelopment commission for the certified technology park and, when collected, paid into the certified technology park fund established under section 23 of this chapter.
- (d) Before July 15 of each year, the redevelopment commission shall do the following:
 - (1) **Subject to subsection (g),** determine the amount, if any, by which the property tax proceeds to be deposited in the certified technology park fund will exceed the amount necessary for the purposes described in section 23 of this chapter.
 - (2) Notify the county auditor of the amount, if any, of excess tax proceeds that the redevelopment commission has determined may be allocated to the respective taxing units in the manner prescribed in subsection (c). The redevelopment commission may not authorize an allocation of property tax proceeds under this subdivision if to do so would endanger the interests of the holders of bonds described in section 24 of this chapter.
- (e) Notwithstanding any other law, each assessor shall, upon petition of the redevelopment commission, reassess the taxable property situated upon or in, or added to, the certified technology park effective on the next assessment date after the petition.
- (f) **Subject to subsection (g)**, notwithstanding any other law, the assessed value of all taxable property in the certified technology park, for purposes of tax limitation, property tax replacement, and formulation of the budget, tax rate, and tax levy for each political subdivision in which the property is located is the lesser of:
 - (1) the assessed value of the taxable property as valued without regard to this section; or
 - (2) the base assessed value.
 - (g) If an allocation provision is adopted after June 30, 2005:
 - (1) the allocation provision may not require proceeds of property taxes imposed by a school corporation to be allocated to the redevelopment commission for the certified technology park;
 - (2) all property taxes imposed by the school corporation are paid into the funds of the school corporation;
 - (3) the redevelopment commission shall exclude the property taxes imposed by a school corporation from the commission's determination under subsection (d)(1); and (4) subsection (f) applies only to a political subdivision other than a school corporation."

Renumber all SECTIONS consecutively.

(Reference is to HB 1182 as printed January 14, 2005.)

FRY

Upon request of Representatives Fry and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 37: yeas 41, nays 51. Motion failed. The bill was ordered engrossed.

House Bill 1240

Representative Becker called down House Bill 1240 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1248

Representative Grubb called down House Bill 1248 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1248–2)

Mr. Speaker: I move that House Bill 1248 be amended to read as follows:

Page 1, between the enacting clause and line 1, being a new paragraph and insert:

"SECTION 1. IC 35-38-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "monitoring device" means an electronic device:

- (1) (A) is limited in capability to the recording or transmitting of information regarding an offender's presence or absence from the offender's home;
- (2) (B) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home;
- (3) (C) with the written consent of the offender and with the written consent of other persons residing in the home at the time an order for home detention is entered, may record or transmit:

(A) (i) visual images;

(B) (ii) oral or wire communication or any auditory sound;

(C) (iii) information regarding the offender's activities while inside the offender's home; or

(2) that:

(A) is worn by an offender; and

(B) uses the global positioning system (GPS) satellite service to transmit the location of the offender at all times.

SECTION 2. IC 35-38-2.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. Before entering an order for home detention that requires the use of a monitoring device described in section 3(3) section 3(1) of this chapter, the court shall inform the offender and other persons residing in the home of the nature and extent of electronic surveillance provided by the monitoring device in the home.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1248 as printed January 14, 2005.)

GRUBB

Motion prevailed.

HOUSE MOTION (Amendment 1248–3)

Mr. Speaker: I move that House Bill 1248 be amended to read as

Page 1, line 6, delete "is" and insert "is:".

Page 1, line 6, delete "convicted:".

Page 1, line 7, after "(A)" insert "sentenced".

Page 1, line 7, reset in roman "this article".

Page 1, line 7, delete "IC 36-2".

Page 1, line 9, after "(B)" insert "convicted".

Page 2, line 28, delete "convicted:" and insert "either:".

Page 2, line 29, after "(A)" insert "sentenced".
Page 2, line 29, strike "this article" and insert "IC 35-50".

Page 2, line 30, after "(B)" insert "convicted".

Page 3, line 34, delete "convicted:" and insert "either:".

Page 3, line 35, after "(A)" insert "sentenced".

Page 3, line 35, strike "this article" and insert "IC 35-50".

Page 3, line 36, after "(B)" insert "convicted".

(Reference is to HB 1248 as printed January 14, 2005.)

GRUBB

Motion prevailed. The bill was ordered engrossed.

House Bill 1262

Representative Kuzman called down House Bill 1262 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Bill 1329

Representative Becker called down House Bill 1329 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

House Joint Resolution 4

Representative Ulmer called down House Joint Resolution 4 for second reading. The joint resolution was read a second time by title.

HOUSE MOTION (Amendment 4–4)

Mr. Speaker: I move that House Joint Resolution 4 be amended to read as follows:

Page 1, delete the title and insert:

A JOINT RESOLUTION proposing an amendment to Articles 1 and 8 of the Indiana Constitution concerning citizens' rights.

Page 1, after line 11, begin a new paragraph and insert:

"SECTION 3. ARTICLE 8, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. Knowledge and learning, generally diffused throughout a community, being essential to the preservation of a free government; it shall be the duty of the General Assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools wherein tuition shall be without charge and equally open to all.".

(Reference is to HJR 4 as printed January 20, 2005.)

HOY

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the resolution. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Hoy's amendment (4–4) is not germane to House Joint

Rule 80 provides a member the right to amend a bill on subjects germane to the subject of the bill under consideration. Amendment 4 is germane to House Joint Resolution 4 because the Indiana Constitution is inherently germane to itself.

> PELATH HOY

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Turner.

The question was, Shall the ruling of the Chair be sustained? Roll Call 38: yeas 49, nays 45. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

HOUSE MOTION

(Amendment 4-3)

Mr. Speaker: I move that House Joint Resolution 4 be amended to read as follows:

Page 1, between the title and the enacting clause, begin a new paragraph and insert:

"Whereas, Hunting, fishing, and harvesting game are valued parts of our heritage and rights of the people; and

Whereas, Regulation of hunting, fishing, and harvesting game may be enacted by the General Assembly or adopted either by state executive branch agencies or local government bodies acting by virtue of the authority of the General Assembly: Therefore,".

Page 1, line 8, delete "a valued part" and insert "valued parts". (Reference is to HJR 4 as printed January 20, 2005.)

ORENTLICHER

Motion failed.

HOUSE MOTION

(Amendment 4–2)

Mr. Speaker: I move that House Joint Resolution 4 be amended to read as follows:

Delete the title and insert the following:

A JOINT RESOLUTION proposing an amendment to Article 15 of the Indiana Constitution concerning hunting and fishing.

Page 1, line 5, delete "1" and insert "15".

Page 1, line 7, delete "38." and insert "11.".

Page 1, line 8, delete "a valued part" and insert "valued parts". (Reference is to HJR 4 as printed January 20, 2005.)

ORENTLICHER

Motion failed. The joint resolution was ordered engrossed.

OTHER BUSINESS ON THE SPEAKER'S TABLE

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on Representative Fry's second reading amendment to House Bill 1182, Roll Call 37, on January 24, 2005. In support of this petition, I submit the following reason:

"I was present and in the Chambers, but was not able to reach my designated voting machine in time to cast my vote. I intended to vote Nay."

BECKER

There being a constitutional majority voting in favor of the petition, the petition was adopted. [Journal Clerk's note: this changes the vote tally for Roll Call 37 to 41 yeas, 51 nays.]

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the ruling of the Chair regarding a second reading amendment to House Bill 1097, Roll Call 35, on January 24, 2005. In support of this petition, I submit the following reason:

"I was present, in my seat, and voted nay. The machine recorded my vote correctly. Subsequently, the voting machine was cleared and reopened; my vote was not recorded. I intended to vote Nay."

AGUILERA

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the ruling of the Chair regarding a second reading amendment to House Bill 1097, Roll Call 35, on January 24, 2005. In support of this petition, I submit the following reason:

"I was present, in my seat, and voted nay. The machine recorded my vote correctly. Subsequently, the voting machine was cleared and reopened; my vote was not recorded. I intended to vote Nay."

BISCHOFF

There being a constitutional majority voting in favor of the petition, the petition was adopted.

PETITION TO CHANGE VOTING RECORD

Mr. Speaker: Pursuant to House Rule 75, I hereby petition to change my voting record on the ruling of the Chair regarding a second reading amendment to House Bill 1097, Roll Call 35, on January 24, 2005. In support of this petition, I submit the following reason:

"I was present, in my seat, and voted nay. The machine recorded my vote correctly. Subsequently, the voting machine was cleared and reopened; my vote was not recorded. I intended to vote Nay."

DENBO

There being a constitutional majority voting in favor of the

petition, the petition was adopted. [Journal Clerk's note: adoption of the petitions of Representatives Aguilera, Bischoff, and Denbo changes the vote tally for Roll Call 35 to 49 yeas, 43 nays.]

HOUSE MOTION

Mr. Speaker: I move that Representatives Borror and Grubb be added as coauthors of HB 1043.

KOCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Thomas and Tincher be added as coauthors of HB 1046.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Pond and Stutzman be added as coauthors of HB 1053.

DODGE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stutzman be added as coauthor of HB 1057.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Borders be removed as coauthor of HB 1075 and that Representatives C. Brown, Burton, and Ripley be added as coauthors.

TORR

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives C. Brown, T. Brown, and Becker be added as coauthors of HB 1098.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Espich be removed as author of House Bill 1118, Representative J. Smith be substituted as author, and Representative Espich added as coauthor.

ESPICH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Grubb be added as coauthor of HB 1118.

J. SMITH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Buck and Turner be added as coauthor of HB 1121.

J. SMITH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Buck be added as coauthor of HB 1130.

FOLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Koch be added as coauthor of HB 1134.

HEIM

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Crooks and Davis be added as coauthors of HB 1165.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Davis and Buck be added as coauthors of HB 1230.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Turner and L. Lawson be added as coauthors of HB 1241.

T. HARRIS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Borror be added as coauthor of HB 1391.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Fry and Neese be added as coauthors of HB 1496.

DVORAK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives J. Lutz, Reske, and Crawford be added as coauthors of HB 1569.

MESSER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ayres be added as coauthor of HB 1581.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Grubb be added as coauthor of HB 1601.

WHETSTONE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Pelath be added as coauthor of HB 1748.

BUDAK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hoffman be added as coauthor of HB 1775.

BUELL

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Mays, the House adjourned at 5:30 p.m., this twenty-fourth day of January, 2005, until Tuesday, January 25, 2005, at 1:30 p.m.

BRIAN C. BOSMA Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives